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# Domestic Relations Orders Background and Instructions

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This document provides background information to those parties or their representatives who may wish to file a Domestic Relations Order (DRO) with one of the State of Michigan's four retirement systems. While every attempt has been made to ensure the accuracy of this document, the Office of Retirement Services (ORS) is bound by the requirements of the applicable retirement statutes. If any discrepancies occur, the provisions of the statutes prevail.

The information in this document is not legal advice. The sharing of a pension under a DRO involves the rights of two individual parties, typically a member of a public retirement system and the member's former spouse. DROs have limitations and may not be the best answer to your particular situation. Individuals who are considering filing a DRO should consult an experienced attorney.

Resources: Your divorce attorney will usually create a DRO that complies with your Judgment of Divorce and the requirements of your retirement plan. If not, you may wish to contact the [State Bar of Michigan Lawyer Referral Service](#) for the names of attorneys or law firms. An additional resource for attorneys is *QDROs, EDROs & Division of Employee Benefits on Divorce, A Guide for Michigan Practitioners*, edited by Nancy Keppelman and the Institute of Continuing Legal Education.

## What is a Domestic Relations Order?

A Domestic Relations Order (DRO) filed with a retirement system typically provides for the division of a pension as a marital asset and/or the removal of a survivor option from a pension which is already in pay status. ORS provides two different DROs for your use:

- *Domestic Relations Order (R323X)* is to be used for dividing a pension and may include voiding a survivor option.

- *Domestic Relations Order to Void the Survivor Option (R915CGB)* is to be used if you need to void a survivor option only.

The requirements of a DRO under Michigan law, including the retirement system's statute, must be met before a DRO can be administered by the retirement system. ***The best way to ensure a proper DRO is to use the appropriate DRO form noted above.*** See Filing Requirements for details.

Note: A DRO is different from an Eligible Domestic Relations Order (EDRO) which applies only to orders filed with the retirement system *before* the retirement effective date (see Eligible Domestic Relations Order Act, 1991, PA 46). Please see our website for [EDRO information](#). EDROs submitted for a retirant already receiving pension payments will be returned with a request for a DRO.

## Public Acts

The Office of Retirement Services (ORS) administers the retirement systems listed below, which are controlled by their respective public acts.

Michigan Public School Employees Retirement System	1980 PA 300, MCL 38.1301 <i>et seq</i>
State Employees' Retirement System	1943 PA 240, MCL 38.1 <i>et seq</i>
Michigan State Police Retirement System	1986 PA 182, MCL 38.1601 <i>et seq</i>
Judges Retirement System	1992 PA 234, MCL 38.2101 <i>et seq</i>

## Domestic Relations Order Options

Use the online template for *Domestic Relations Order (R323X)* to do one, or both, of the following:

1. Assign a percentage or a specific dollar amount of the retirant's pension to the former spouse. Payments to the former spouse will be effective the first day of the month following ORS' receipt of an acceptable DRO. Retroactive pension adjustments will not be made.
2. If, at the time of retirement, the retirant elected to receive their retirement allowance in the form of a survivor option and designated the former spouse as beneficiary, the DRO may void the survivor option elected (50%, 75%, or 100%). If the survivor option is voided, the retirant's retirement allowance will revert to the straight life option. **Note:** Although the retirant may be entitled to receive the retirement allowance in the form of a straight life benefit, a portion of that straight life benefit may still be assigned to the former spouse under the DRO.

## Voiding a Survivor Option Chosen at Retirement

**IMPORTANT:** This option is only available to members of the Michigan Public School Employees Retirement System, the State Employees' Retirement System, and the Judges Retirement System.

If a survivor option naming the former spouse was chosen at retirement, it may be voided by filing one of the following documents with ORS:

1. A true or certified copy of a Judgment of Divorce, which includes the language below. ***If this language is included in the Judgment of Divorce, a separate DRO is not needed.***

"The plan administrator shall, upon receipt of this order, negate and declare null and void, the retirant, \_\_\_\_\_ [insert member's full name]'s election of the \_\_\_\_\_ [select 50%, 75%, or 100%] survivor option previously filed with [insert applicable retirement system, i.e.; Michigan Public School Employees Retirement System, MCL 38.1301

*et seq* or State Employees' Retirement System, MCL 38.1 *et seq* or Judges Retirement System, MCL 38.2101 *et seq*], thereby relinquishing all rights of the former spouse, [insert beneficiary's full name] to any pension or benefit after the death of the retirant. Beginning the first month following the presentation of a certified copy of this order to the Plan Administrator, the retirant's retirement allowance shall revert to a straight life allowance."

2. A true or certified copy of the online DRO template declaring the selected survivor option VOID: Domestic Relations Order to Void the Survivor Option (R915CGB).

Upon ORS's receipt of a true or certified copy of a Judgment of Divorce or an acceptable DRO voiding the survivor option, the retirant's pension will be adjusted to a straight life allowance. The adjusted straight life allowance will be effective the first of the month after ORS's receipt of the acceptable court order.

## Upon the Death of the Former Spouse

If the former spouse dies, a copy of the death certificate must be submitted to ORS and all payments to the former spouse under the DRO will cease. If the former spouse predeceases the retirant, the retirant's pension will be adjusted to reflect the share of the pension previously assigned to the former spouse under the DRO:

- If a survivor option was not elected at the time of retirement or was voided pursuant to the divorce, the retirant's pension will be increased by the amount paid to the former spouse under the DRO.
- If, at the time of retirement, the retirant elected a survivor option and designated the former spouse as beneficiary and if that option remains in effect, the retirant's pension will be increased by the amount paid to the former spouse under the DRO and will be adjusted to a straight life allowance.

## Upon the Death of the Retirant

If the retirant dies, all payments authorized by the DRO cease to the former spouse. If a survivor option was chosen at retirement and remains in effect, the survivor pension will become payable to the named pension beneficiary the first day of the month following the retirant's death.

## Health, Drug, Dental/Vision, and Life Insurance

Effective the date of divorce, the former spouse is no longer eligible for the retirant's health, drug, dental/ vision, and life insurance coverages. It is the retirant's responsibility to remove the former spouse from the insurance coverages by completing an *ORS Insurance Enrollment Change Request (R0452)* form and returning it to ORS along with a copy of the Judgment of Divorce as soon as possible. It is imperative that you do this quickly, as any claims made after the date of divorce will be rejected and will become the responsibility of the retirant to pay.

A divorced spouse removed from health, drug, and dental/ vision insurance(s) may continue the retirement system's group plan(s) for up to three years through the COBRA direct pay insurance program. The coverage will not change. He/she is required to pay 102 percent of the insurance premiums. Insurance rates are available on each retirement system's website.

For information concerning the COBRA direct pay insurance program, contact:  
Department of Technology, Management and Budget  
Office of Retirement Services  
P.O. Box 30171  
Lansing, MI 48909  
Phone (517) 322-5103 in Lansing  
or (800) 381-5111

## Other comments

- Payments from the retirement system to the former spouse cannot be converted to a lump sum distribution or to provide a survivor benefit.
- Section 402(a) of the Internal Revenue Code requires that the recipient of funds from a qualified retirement plan must pay taxes on the distribution.

## Does the DRO affect the State of Michigan 401(k) and 457 plans?

By filing a DRO with the pension system, the changes affect only your pension and have no effect on 401(k), 457, or other employer-sponsored plans. If you are a member of the State Employees', State Police, or Judges Retirement System and enrolled in the State's 401(k) or 457 plans, contact ING to change your beneficiary:

ING

Attn: State of Michigan Plan Administrator  
P.O. Box 55497  
Boston, MA 02205-5497  
(800) 748-6128

## Filing Requirements

**A valid DRO is one that is signed by a judge and stamped as a true copy by the court clerk.** Members who are divorced while still actively employed file an [Eligible Domestic Relations Order \(EDRO\)](#). A DRO filed after the Retirant's death will not be accepted.

The Office of Retirement Services (ORS) has developed the online DRO to reduce errors and allow our customers to create DROs that can be administered under the retirement statutes. This interactive pdf document prevents errors by not allowing contradicting selections, by prefilling some information, and by offering pop-up help screens. ***This is the preferred document to file with the Office of Retirement Services.*** It is the fastest, most cost-effective way to complete your filing. Complete it online, print it, take the printed copy to the court for the judge's signature, and then submit the signed and stamped true copy of the document to ORS at the address indicated on the form.

The online DRO includes an attachment containing the parties' social security numbers that should not be filed with the court but is required to be filed with the retirement system when submitting the DRO. This attachment allows the retirement system to find the Retirant's account and to set up a new account for the Former Spouse accurately. Please be sure to include it when you forward the signed DRO to ORS.

If for any reason you are unable to use the online DRO and instead create your own, the retirement system will determine whether your DRO is valid. These documents require closer review, take longer

to process and are very likely to be returned for corrections. If the retirement system determines that a DRO is not valid, the retirement system will reject the order and notify the Retirant and the Former Spouse of the reasons why the order does not comply. It is the responsibility of the Retirant and the Former Spouse to obtain an amended order which meets the requirements of the applicable law and file that order with the retirement system. In these rare situations where the online DRO doesn't meet your needs, the retirement system will review a draft of the DRO to verify compliance before the order is presented in court.